

FCC MAIL SECTION

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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of
Amendment of Section 73.202(b),
FM Table of Allotments,
FM Broadcast Stations.
(Tilden, Texas)

MM Docket No. 01-153
RM-10169

REPORT AND ORDER
(Proceeding Terminated)

Adopted: April 2, 2004

Released: April 5, 2004

By the Assistant Chief, Audio Division:

1. The Audio Division has before it the *Notice of Proposed Rule Making*¹ in this proceeding. First Broadcasting Company, L.P., Next Media Licensing, Inc., Rawhide Radio, L.L.C., Capstar TX Limited Partnership and Clear Channel Broadcasting Licenses, Inc. ("Joint Parties") filed comments. Charles Crawford filed comments and reply comments. For the reasons discussed below, we are dismissing the underlying proposal to allot Channel 245C3 at Tilden, and terminating this proceeding.

2. In a separate proceeding in MM Docket No. 00-148, we issued a *Notice of Proposed Rule Making* proposing the allotment of Channel 233C3 to Quanah, Texas.² The date by which comments and counterproposals were due in that proceeding was October 10, 2000. Joint Parties filed a timely counterproposal in that proceeding. Included in that counterproposal was a proposal to allot Channel 245C1 at San Antonio, Texas.³ In this proceeding, Charles Crawford filed his petition for rule making proposing the allotment of Channel 245C3 at Tilden on September 17, 2001.⁴ That proposal is mutually exclusive with the pending Channel 245C1 proposal at San Antonio in MM Docket No. 01-148. In order for the Tilden proposal to be considered, that proposal had to be filed by the October 10, 2000, comment date in MM Docket No. 00-148. Charles Crawford filed his Tilden proposal more than eleven months after that due date. Accordingly, we are dismissing the Tilden petition for rule making underlying this proceeding as untimely.⁵ In the event the Joint Parties' counterproposal is ultimately dismissed or Channel 245C1 at San Antonio, Texas, is not allotted in that proceeding, Charles Crawford may then file

¹ *Tilden, Texas*, 16 FCC Rcd 13,915 (MM 2001).

² *Quanah, Texas*, 15 FCC Rcd 15809 (MMB 2000).

³ The proposed reference coordinates for the allotment of Channel 245C1 at San Antonio are 29-30-01 NL and 98-46-41 WL.

⁴ The proposed reference coordinates for the allotment of Channel 245C3 at Tilden are 28-29-13 NL and 98-30-41 WL.

⁵ See *Benjamin and Mason, Texas*, FCC 03-327 (Jan. 8, 2004). See also *Pinewood, South Carolina*, 5 FCC Rcd 7609 (1990). At the time the *Notice of Proposed Rule Making* in this proceeding (MM Docket No. 01-153) was issued, the staff was unaware of the mutual exclusivity between Crawford's proposal in this proceeding and the San Antonio proposal for Channel 245C3 that was included in the counterproposal in MM Docket No. 00-148, because the San Antonio proposal had not yet been entered into our data base. If the San Antonio proposal had been included in the data base at that time, Crawford's petition for rule making at Tilden would have been returned as unacceptable for filing.

his proposal for a Channel 245C3 allotment at Tilden, Texas. At this point, we do not see any public interest benefit in continuing to consider a Channel 245C3 allotment at Tilden contingent upon an action in a separate proceeding

3. Accordingly, IT IS ORDERED That the Petition for Rule Making filed September 17, 2001, by Charles Crawford, proposing to allot Channel 245C3 to Tilden, Texas, IS DISMISSED.

4. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau